

CHAPTER 155  
OFF-STREET PARKING  
S. F. 250

AN ACT to amend section three hundred ninety point nine (390.9), Code 1950, relating to off-street parking and issuance of revenue bonds.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section three hundred ninety point nine (390.9), Code  
2 1950, is hereby amended by striking the period at the end of said  
3 section and substituting a comma in lieu thereof and adding thereto the  
4 following: "and said funds may be pledged as security for the payment  
5 of such bonds and the interest thereon and such bonds, excepting bonds  
6 payable from a tax levied against a benefited district, shall be a lien  
7 on the property purchased from the proceeds thereof but shall not be a  
8 general obligation of such city or town and shall not be payable in any  
9 manner by taxation nor shall the municipality be in any manner liable  
10 by reason of said funds being insufficient to pay said bonds."

1 SEC. 2. This Act being deemed of immediate importance shall be  
2 in full force and effect from and after its publication in the Iowa Falls  
3 Citizen, a newspaper published at Iowa Falls, Iowa, and in the Eagle  
4 Grove Eagle, a newspaper published at Eagle Grove, Iowa.

Approved March 27, 1951.

I hereby certify that the foregoing act was published in the Iowa Falls Citizen, Iowa Falls, Iowa, April 5, 1951, and in the Eagle Grove Eagle, Eagle Grove, Iowa, March 29, 1951.

MELVIN D. SYNHORST, *Secretary of State.*

CHAPTER 156  
MUNICIPAL PUBLIC IMPROVEMENTS  
S. F. 314

AN ACT relating to special assessment of public improvements in municipal corporations, and to repeal chapter three hundred ninety-one A (391A), Code 1950, and enact in lieu thereof a new alternate method for financing public improvements and to amend certain other sections of the code relating to special assessments.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 That chapter three hundred ninety-one A (391A), Code 1950, is  
2 hereby repealed and sections one (1) to thirty-nine (39) hereof  
3 enacted in lieu thereof.

1 SECTION 1. Definitions. The following words or terms, as used in  
2 this chapter, shall have the respective meanings as stated:

3 1. "Municipality" shall mean any city or town, regardless of form  
4 of government or manner of incorporation.

5 2. "Council" shall mean the governing body of the municipality.

6 3. "Clerk" shall mean the officer performing the duties of city or  
7 town clerk.

8 4. "Public improvements" shall include the principal structures,  
9 works, component parts, and accessories of any of the following:

10 a. Sanitary, storm and combined sewers;

- 11     b. Drainage conduits, channels, and levees;  
12     c. Street grading, paving, graveling, macadamizing, curbing,  
13     guttering, and surfacing with oil, oil and gravel, and chloride;  
14     d. Street lighting fixtures, connections, and facilities;  
15     e. Sewage pumping stations and disposal and treatment plants;  
16     f. Underground gas, water, heating, sewer, and electrical connec-  
17     tions located in streets for private property;  
18     g. Sidewalks and pedestrian underpasses or overpasses;  
19     h. Waterworks, water mains, and extensions.
- 20     5. "Construction" shall include all materials, labor, acts, operations,  
21     and services necessary to complete a public improvement.
- 22     6. "Repair" shall include all materials, labor, acts, operations, and  
23     services necessary for the repair, reconstruction, or resurfacing of a  
24     public improvement.
- 25     7. "Street" shall mean any public street, highway, boulevard, ave-  
26     nue, alley, parkway, public place, or publicly owned right of way or  
27     easement within the limits of the municipality.
- 28     8. "Lot" shall mean any lot, part of lot, tract, or parcel of land  
29     under one ownership including improvements thereon.
- 30     9. "Total cost" of a public improvement may include the cost of  
31     engineering, preliminary reports, property valuations, estimates,  
32     plans, specifications, notices, legal services, acquisition of land, conse-  
33     quential damages or costs, easements, rights of way, construction,  
34     repair, supervision, inspection, testing, notices and publication, in-  
35     terest during construction and for not more than six months there-  
36     after, and printing and sale of bonds.
- 37     10. "Gravel" shall include gravel, crushed rock, cinders, shale, and  
38     similar materials suitable for street construction or repair.
- 39     11. "Oil" shall mean any asphaltic or bituminous material suitable  
40     for street construction or repair.
- 41     12. "Sewer" shall mean structures designed, constructed, and used  
42     for the purpose of controlling or carrying off streams, surface waters,  
43     waste, or sanitary sewage.
- 44     13. "Main sewer" means any sewer which serves as an outlet for  
45     two or more lateral sewers, and which is commonly referred to as an  
46     intercepting sewer, outfall sewer, or trunk sewer.
- 47     14. "Lateral sewer" means any sewer which contributes sewage or  
48     surface or ground water from a local area to a main sewer or outlet.
- 49     15. "Sewer systems" are composed of the main sewers, sewage  
50     pumping stations, treatment and disposal plants, lateral sewers, drain-  
51     age conduits or channels, and sewer connections in public streets for  
52     private property within a sewer assessment district.
- 53     16. "District" means the lots or parts of lots within boundaries  
54     established by the council for the purpose of the assessment of the cost  
55     of a public improvement.
- 56     17. "Private property" means all property within the district except  
57     streets, property owned by the United States, and property owned by  
58     the municipality.
- 59     18. "Abutting lot" means a lot which abuts or joins the street in  
60     which the public improvement is located or which abuts the right of  
61     way of the public improvement.

62 19. "Adjacent lot" means any lot within the district which does  
63 not abut upon the street or right of way of the public improvement.

64 20. "Street improvement" means the construction, or repair of any  
65 street by grading, paving, curbing, guttering, and surfacing with oil,  
66 oil and gravel, or chloride; and street lighting fixtures, connections,  
67 and facilities.

68 21. "Proposal" means a legal bid on work advertised for a public  
69 improvement.

70 22. "Paving" means any kind of hard street surface including, but  
71 not limited to, concrete, bituminous concrete, brick, stabilized gravel,  
72 or combinations thereof, together with curb and gutter.

73 23. "Engineer" means a professional engineer, registered in the  
74 state of Iowa, authorized by the council to render services in connec-  
75 tion with the public improvement.

76 24. "Grade" means the longitudinal reference lines, as established  
77 by the council, which designate the elevations at which a street or  
78 sidewalk is to be built.

79 25. "Final grade" means the grade to which the public improvement  
80 is proposed to be constructed or repaired as shown on the final plans  
81 adopted by the council.

82 26. "Railways" shall mean all railways except street railways.

83 27. "Publication" shall mean public notice given in the manner pro-  
84 vided by section six hundred eighteen point fourteen (618.14).

1 SEC. 2. **Grant of power.** Municipalities shall have the power to  
2 construct, and repair all public improvements within their limits, and  
3 main sewers, sewage pumping stations, disposal and treatment plants,  
4 waterworks, water mains, and extensions, and drainage conduits ex-  
5 tending outside their limits, and assess the cost thereof to private  
6 property within the municipality as hereinafter provided.

1 SEC. 3. **Limitation—paving and sidewalks.** The construction of  
2 paving, curbing, guttering, or sidewalks shall not be ordered unless  
3 such improvement, when completed, shall be to grade.

1 SEC. 4. **Connections to private property.** The council may include  
2 underground gas, water, heating, sewer, or electrical connections to  
3 the street or property line for private property as a part of the public  
4 improvement; or, it may order the property owner to make, repair, or  
5 relocate such connections by publication of a notice once each week for  
6 two consecutive weeks in the manner provided by section six hundred  
7 eighteen point fourteen (618.14) and in the event that such order is  
8 not complied with at the end of thirty days after the date of the first  
9 publication cause the work to be done and assess the cost thereof  
10 against the property served by the connection.

1 SEC. 5. **Preliminary procedure.** When the council deems it neces-  
2 sary to construct or repair any public improvement under the provi-  
3 sions of this chapter, it shall proceed as follows:

4 1. Arrange for engineering services to prepare the plats, schedules,  
5 estimates of cost, plans, and specifications, as hereinafter provided,  
6 and supervise the construction of the proposed improvement.

7 2. Adopt a preliminary resolution, which shall require for passage

8 the vote of a majority of all the members of the council. The prelim-  
9 inary resolution shall contain the following:

10 a. A description of the type or alternate types of improvement  
11 proposed.

12 b. The beginning and terminal points or general location of the  
13 proposed improvement.

14 c. An order to the engineer to prepare preliminary plans and  
15 specifications, an estimated total cost of the work, and a plat and  
16 schedule, and to file same with the clerk.

17 d. A general description of the property or a designation of the  
18 lots which the council believes would be specially benefited by the  
19 improvement.

20 3. The preliminary resolution may also contain the following:

21 a. A statement of the proportion of the total cost which the council  
22 proposes to assess against benefited property.

23 b. A short and convenient designation for the public improvement  
24 by which it shall be sufficient to refer to the improvement in all subse-  
25 quent proceedings.

26 4. A preliminary resolution may include more than one improve-  
27 ment or class thereof only when they are so located or otherwise related  
28 as to make it advisable in the opinion of the council to carry on the  
29 work simultaneously.

30 5. A single improvement may be in more than one locality or street,  
31 and that portion of the street which has been improved by any railway,  
32 or which the municipality is authorized under franchise or contract  
33 with such railway to require it to improve may be excluded.

1 SEC. 6. **Preliminary plans and specifications.** Preliminary plans  
2 and specifications need only be in sufficient detail to advise any person  
3 interested of the general nature, character, and type of the improve-  
4 ment.

1 SEC. 7. **Estimated total cost.** The estimated total cost of any pub-  
2 lic improvement constructed under this chapter shall include all of the  
3 items of cost listed in subsection nine (9) of section one (1) hereof,  
4 which the council proposes to include as a part of the cost of such pub-  
5 lic improvement, and in addition thereto may include an item to be  
6 known as the default fund amounting to not more than ten percent of  
7 that portion of the total cost of the improvement which the council  
8 proposes to assess against benefited property.

1 SEC. 8. **Requirements of the plat.** The plat as prepared and filed  
2 by the engineer shall show the following information:

3 1. The boundaries of the district containing the lots proposed to  
4 be assessed.

5 2. The location of each lot under separate ownership within the dis-  
6 trict, including the property of all railways and utilities subject to  
7 assessment.

8 3. The location of the improvement within the district together  
9 with the terminal points of all major parts thereof proposed to be  
10 assessed.

11 4. The type and general details of the improvement.

1 SEC. 9. **Valuations.** Upon completion of the plat, the council shall  
2 proceed to determine the valuation of each lot within the proposed

3 assessment district and shall report same to the engineer, who will  
 4 show such valuation on the schedule before same is filed with the clerk.  
 5 Said valuation shall be its present fair market value with the proposed  
 6 public improvement completed. As an aid in determining said valua-  
 7 tions the council may appoint a committee of three persons skilled in  
 8 the knowledge of real estate values within the municipality to appraise  
 9 the present fair market value of each lot within such district and to  
 10 file a written report of its appraisals with the council.

1 SEC. 10. **Requirements of schedule.** The schedule, as prepared by  
 2 the engineer, shall show the following information for each lot within  
 3 the district:

4 1. A description of each lot and the name of the owners thereof as  
 5 shown by the records in the office of the county auditor of the county  
 6 in which the lot is located.

7 2. The valuation of each lot as determined by the council.

8 3. The total amount proposed to be assessed each lot, which shall  
 9 include the assessment for the default fund, if any.

10 4. The amount of deficiency, if any, between the amount proposed  
 11 to be assessed and the proportion of the estimated total cost of the  
 12 public improvement allocated to each lot.

1 SEC. 11. **Plat, schedule, and estimate adopted.** When the plat,  
 2 schedule, and estimate of cost have been so filed, the council may,  
 3 before adopting a proposed resolution of necessity as hereinafter  
 4 provided, cause the estimate, valuation, or assessment of any lot or  
 5 the boundaries of the district as reported by the engineer to be  
 6 amended and adopt the same as amended or may adopt the same as  
 7 filed.

1 SEC. 12. **Proposed resolution of necessity.** If, upon adoption of  
 2 the plat, schedule, and estimate, the council determines to proceed with  
 3 all or any part of the public improvement, it shall cause a proposed  
 4 resolution of necessity to be prepared and introduced. Said resolution  
 5 shall describe briefly the proposed public improvement and shall state  
 6 that there is on file in the office of the clerk an estimated total cost  
 7 of the work, and a preliminary plat and schedule showing the amount  
 8 proposed to be assessed to each lot for the improvement; and it shall  
 9 state the date, time, and place the council will hear property owners  
 10 subject to the assessment and interested parties for or against the im-  
 11 provement, its cost, the assessment thereof, or the boundaries of the  
 12 district.

1 SEC. 13. **Notice of hearing.** The clerk shall cause public notice of  
 2 the date, time, and place of the hearing to be given by publication once  
 3 each week for two consecutive weeks in the manner provided by section  
 4 six hundred eighteen point fourteen (618.14), the first publication of  
 5 which shall be not less than fifteen nor more than twenty-five days  
 6 prior to the hearing. The notice shall be in the following form:

7 NOTICE TO PROPERTY OWNERS

8 Notice is hereby given that there is now on file for public inspection  
 9 in the office of the clerk of \_\_\_\_\_, Iowa, a proposed  
 10 resolution of necessity, and estimate of cost and a plat and schedule  
 11 showing the amounts proposed to be assessed against each lot and the

12 valuation thereof within a district as approved by the .....  
 13 council of ....., Iowa, for a .....  
 14 improvement of the type and in the location as follows: .....

15 .....  
 16 The council (or other governing body) will meet at .....  
 17 o'clock .....M. on ....., 19....., at the  
 18 ..... at which time the owners of property subject  
 19 to assessment for the proposed improvement or any other person  
 20 having an interest in the matter may appear and be heard for or  
 21 against the making of the improvement, the boundaries of the district,  
 22 the cost, the assessment against any lot, or the final adoption of a  
 23 resolution of necessity.

24 .....  
 25 Clerk.

26 The clerk shall mail a copy of the foregoing notice by ordinary mail  
 27 to the owners of property, as shown by the records in the office of the  
 28 county auditor, within the bounds of the proposed improvement. Fail-  
 29 ure to receive such notice shall not constitute a defense to the special  
 30 assessment.

1 SEC. 14. **Hearing.** The council shall meet as specified in the pub-  
 2 lished notice, and after hearing all objections and indorsements from  
 3 the owners of property and other persons having an interest in the  
 4 matter, and after causing all written objections theretofore filed to be  
 5 read, may adopt or amend and adopt, the proposed resolution of ne-  
 6 cessity, or may defer action thereon until a subsequent meeting.  
 7 Such resolution of the council shall require for passage the vote of  
 8 three-fourths of all the members of the council, or, in municipalities  
 9 having but three members of the council, the vote of two members, and  
 10 where a remonstrance has been filed with the clerk, signed by the  
 11 owners subject to seventy-five percent of the amount of the proposed  
 12 assessment, no such resolution shall be passed except by unanimous  
 13 vote of the council. However, any amendment which extends the  
 14 boundaries of a district or increases the amount to be assessed against  
 15 any lot shall not be effective until an amended plat, schedule, and  
 16 estimate have been prepared and adopted and a notice published and  
 17 hearing held in the same manner as hereinbefore provided for the  
 18 original proceedings; or until all property owners affected thereby  
 19 agree in writing to the change.

1 SEC. 15. **Order to engineer and attorney.** After adopting a resolu-  
 2 tion of necessity, the council may, by resolution, order the engineer to  
 3 prepare and file with the clerk detailed plans and specifications, and  
 4 order the engineer and city attorney, or an attorney designated by  
 5 the council, to prepare and file with the clerk a notice to bidders and  
 6 form of contract.

1 SEC. 16. **Notice to bidders.**  
 2 1. The notice to bidders shall state:  
 3 a. The time and place for filing sealed proposals;  
 4 b. The time and place such proposals will be opened and considered  
 5 by the council;  
 6 c. The general nature and approximate extent of the work;  
 7 d. When the work shall be commenced and when it shall be com-  
 8 pleted;

9 e. The terms and method of payment;  
10 f. That each bidder shall accompany his bid with a cashier's or  
11 certified check on an Iowa bank in an amount fixed by the council in  
12 the manner provided by subsection three (3) hereof, as security  
13 that the bidder will enter into the contract for the work bid upon and  
14 will furnish a corporate surety bond acceptable to the council for the  
15 faithful performance of the contract.

16 2. The notice for bids may provide that bids will be received for  
17 the furnishing of all labor and materials required to complete all parts  
18 of the proposed work under one contract, or for parts thereof in sep-  
19 arate sections.

20 3. Upon approval by the council of the detailed plans, specifica-  
21 tions, notice to bidders, and form of contract, it shall by resolution fix  
22 the amount of the check to accompany each bid, which amount shall  
23 equal at least five percent, but shall not exceed ten percent, of the  
24 engineer's estimated total cost of the work, and shall order the clerk  
25 to publish the notice to bidders.

26 4. Publication of the notice to bidders shall be made once each week  
27 for two consecutive weeks, in the manner provided by section six  
28 hundred eighteen point fourteen (618.14), the first of which publica-  
29 tions shall be not less than twelve days before the date set for re-  
30 ceiving bids.

1 SEC. 17. Award of contract or rejection of bids. The council  
2 shall open, announce the amount of the bids, and file all proposals re-  
3 ceived, at the time and place specified in the notice to bidders. They  
4 may, thereafter by resolution, award the contract to the lowest bidder,  
5 or they may reject all received proposals and may order the clerk to  
6 again publish notice to bidders, in the manner hereinbefore provided.

7 The check of the successful bidder shall be retained by the municipi-  
8 pality until the approved contract form has been completed and exe-  
9 cuted and a bond filed by the bidder and approved by the council as  
10 provided in section nineteen (19) hereof. If the successful bidder  
11 fails to sign the contract and furnish the required bond within ten  
12 days after the award of the contract to him, the check may be cashed  
13 and the amount thereof retained by the municipality as agreed  
14 liquidated damages. The checks of unsuccessful bidders shall be  
15 promptly returned to such bidders by the clerk and a receipt therefor  
16 obtained and placed on file in his office.

1 SEC. 18. Optional court confirmation procedure. After the receipt  
2 and consideration of bids as provided in section seventeen (17) but  
3 before awarding the contract the council may elect to proceed as fol-  
4 lows:

5 1. The council shall direct the city attorney to file, in the district  
6 court of the county in which the property proposed to be assessed is  
7 located, a petition praying that the acts done by said council relative  
8 to the proposed public improvement be confirmed by decree.

9 2. There shall be attached to said petition:

10 a. A copy of the resolution of necessity as adopted by the council.

11 b. A copy of the proposed schedule of assessments as adopted by  
12 the council under sections eleven (11) and fourteen (14) hereof, which

13 schedule shows the maximum amount that the council proposes to  
14 assess against any lot.

15 c. Detailed plans and specifications as prepared by the engineer.

16 d. A copy of the proposed contract as prepared by the city attorney.

17 3. Notice of the filing of such petition shall be given in the same  
18 form and manner as is provided for service of original notice by pub-  
19 lication by the Rules of Civil Procedure.

20 4. Any such petition shall have precedence over any other business  
21 of the court, except in criminal cases, and said court shall set the  
22 said petition for hearing within thirty days from the date of final  
23 publication of notice.

24 5. If no person having an interest in property proposed to be as-  
25 sessed has entered an appearance or filed an answer within the time  
26 set for hearing on said petition the court shall immediately confirm  
27 said assessment and order the clerk to certify same to the city clerk.

28 6. If any person having an interest in property proposed to be as-  
29 sessed has entered an appearance or filed an answer to said petition,  
30 the court shall hear the cause. Said cause shall be triable as in equity.

31 7. Upon the hearing the court shall have power to correct any ir-  
32 regularities or inequalities in valuations or in the schedule of assess-  
33 ments, and shall consider any objections because of alleged illegal  
34 procedure or fraud.

35 8. The court shall render a decision upon said hearing within seven  
36 days thereafter.

37 9. The clerk of said court shall certify to the city clerk the final  
38 action of the court within three days from the date of the final order  
39 or judgment of said court, upon said petition, showing assessments  
40 as confirmed in the schedule of assessments.

41 10. An appeal from the decree of the district court shall be per-  
42 fected within thirty days from the date of said decree and the abstract  
43 shall be served and filed in the office of the clerk of the supreme court  
44 within ninety days from the date of said district court decree.

45 11. If the aggregate of all appeals exceeds ten percent of the total  
46 assessment as confirmed by the district court, the contract may or  
47 may not be let, in the discretion of the council, until said appeals are  
48 finally determined, but said appeals shall not delay the execution of a  
49 contract for the work, if council concludes said appeals were not  
50 taken in good faith.

51 12. An appeal shall not, in the discretion of the council, delay the  
52 certification of an assessment or progress of an improvement, but  
53 upon decision of the appeal the assessment appealed from shall be  
54 corrected and collected in the same manner as provided by section  
55 thirty-six (36).

56 13. Corrections of assessments or valuations made by or upon the  
57 order of the district court shall be conclusive and not subject to review  
58 on appeal, or otherwise, except as provided in subsections ten (10)  
59 to twelve (12) of this section. When court confirmation is obtained  
60 as herein provided there shall be no right of appeal under the provi-  
61 sions of section thirty-one (31) hereof.

62 14. In the event no contract is entered into within sixty days from  
63 the date of confirmation by the district court the court shall cancel



64 said assessment, upon application of the city attorney, if no appeal is  
65 pending.

66 15. The cost of all court proceedings shall be a legitimate item of  
67 expense in connection with any public improvement, and shall be in-  
68 cluded within the final assessment against any property proposed to  
69 be improved.

1 SEC. 19. **Bond of contractor.** Each contractor for a public im-  
2 provement shall give bond to the municipality, conforming to the  
3 requirements of section five hundred seventy-three point six (573.6),  
4 with corporate sureties approved by the council, for the faithful per-  
5 formance of the contract, in a sum equal to the contract price, and  
6 action upon such bond may be brought in the county where the council  
7 holds its meetings.

1 SEC. 20. **Underground connections—waterworks trustees.** In mu-  
2 nicipalities having a board of waterworks trustees and in which water  
3 connections are not installed by such trustees at public expense, the  
4 council shall notify such board, at the time of the adoption of a pre-  
5 liminary resolution, of any proposed street paving projects. There-  
6 upon the board shall report to the council the number of connections  
7 from water mains in such streets to the curb lines of the proposed  
8 improvement necessary to serve private property dependent upon  
9 those particular mains for water supply, and the numbers of the lots  
10 to be served by such connections, and the names of the owners thereof.  
11 Notice shall be given to such property owners, at the same time and in  
12 the same manner as the notice provided in section thirteen (13) hereof,  
13 to install the necessary connections within thirty days after hearing.  
14 For the purposes of such hearing, property owners who are notified to  
15 install water connections, but whose property is not within the pro-  
16 posed assessment district, may appear as interested parties. If, upon  
17 hearing, the council determines to proceed with the improvement, and  
18 any property owner fails to make connections as required, the board  
19 of waterworks trustees shall cause them to be made and certify the  
20 cost thereof to the council to be assessed against the property and  
21 collected in the same manner as provided in section four (4) hereof  
22 for other underground connections.

1 SEC. 21. **State property and roads.** Municipalities may assess the  
2 cost of a public improvement which extends through or abuts upon,  
3 or is adjacent to lands owned by the state, and the executive council  
4 shall pay such portion of the cost of making said improvement through  
5 or along such lands as provided hereinafter. Payment of such as-  
6 sessments shall be made by the executive council from any funds of  
7 the state not otherwise appropriated.

8 When a state park or institutional road abutting on or adjacent to  
9 state lands is improved by paving, the state shall pay one-half the  
10 total assessed cost of that portion of the improvement abutting, or  
11 adjacent to such lands, lots, parts or portions thereof, but for any  
12 other type of improvement so constructed and located the state shall  
13 pay such portion of the cost as would be assessable against such lands  
14 were they privately owned.

15 When any portion of the cost of a public improvement is to be paid  
16 by the state under this section, the clerk shall, at the time of publica-

17 tions of the notice required by section thirteen (13), cause a copy  
18 of such notice to be sent to the secretary of the executive council by  
19 registered mail with return receipt.

20 Municipalities in which state buildings are located shall permit  
21 sewers for such buildings to be constructed through or under the  
22 streets of the municipality, and connections to be made to the sewer  
23 system of the municipality under the same regulations as for sewer  
24 connections to private property.

1 SEC. 22. **Monthly payments to contractor.** When the specified  
2 duration of time for the performance of a public improvement con-  
3 struction contract exceeds sixty days, the municipality may contract  
4 to pay not to exceed ninety percent of the engineer's estimated value  
5 of the acceptable work completed during the month to the contractor at  
6 the end of each month. Payment shall be made in warrants drawn  
7 on any fund from which payment for such work may be made and  
8 such warrants, unless paid upon presentation, shall draw interest at  
9 the rate of four percent per annum from and after the date of pres-  
10 entation for payment. If such fund is depleted, anticipatory warrants  
11 may be issued and if the collection of taxes or special assessments, or  
12 income from the sale of bonds applicable to the public improvement  
13 shall be after the end of the fiscal year in which the warrants are  
14 issued, said warrants shall not constitute a violation of section four  
15 hundred four point seventeen (404.17).

1 SEC. 23. **Inspection, acceptance and payment.**

2 1. The engineer for the municipality shall inspect all work done  
3 under this chapter, and within fifteen days of the final completion of  
4 the public improvement he shall file a certificate with the clerk stating:

5 a. That he has inspected the completed work;

6 b. That such work has or has not been performed in compliance  
7 with the terms of the contract, and the particulars, if any, in which  
8 the work varies from said terms;

9 c. The total cost of the completed work.

10 2. Within fifteen days after the filing of the engineer's certificate,  
11 the council shall by resolution accept or reject the work.

12 3. Upon accepting the work, or within ten days thereafter, the  
13 council shall ascertain the total cost thereof and by resolution deter-  
14 mine the proportion or amount of such cost to be assessed against  
15 private property within the assessment district.

16 4. Upon accepting the work the council shall order payment of any  
17 amounts due the contractor to be made by warrants issued in the  
18 manner provided by section twenty-two (22) hereof.

1 SEC. 24. **Final schedule—filing.** Within thirty days after the coun-  
2 cil adopts a resolution fixing the amount to be assessed against private  
3 property, the engineer shall file with the clerk an assessment schedule  
4 showing:

5 1. A description of each lot to be assessed;

6 2. The valuation of each lot as fixed by the council;

7 3. The amount to be assessed against each lot, which amount shall  
8 include the assessment for the default fund, if any.

1     **SEC. 25. Final schedule—adoption and certification.** Within ten  
2 days after filing by the engineer, the council shall meet, consider, and  
3 adopt or amend and adopt, by resolution, the final assessment schedule.  
4 Said resolution shall:

- 5     1. Confirm and levy the assessments;
  - 6     2. State the number of installments, not exceeding fifteen, into  
7 which assessments of ten dollars or more are divided;
  - 8     3. Provide for interest on all unpaid installments at five percent  
9 per annum;
  - 10    4. State the time when assessments are payable;
  - 11    5. Direct the clerk to certify such final schedule to the auditor of  
12 the county or counties in which the assessed property is located and  
13 publish notice thereof.
- 14     Thereupon, the county auditor shall place on the tax list the amounts  
15 to be assessed against each lot within the assessment district as  
16 certified.

1     **SEC. 26. Assessment of cost.** The total cost of a public improve-  
2 ment, except for that part for which railways are liable or which is  
3 to be otherwise paid, shall be assessed against all lots within the  
4 assessment district in accordance to the special benefits conferred  
5 upon the property thereby and not in excess of such benefits.

6     If any owner of property subject to special assessment shall divide  
7 the same into two or more lots and if such plan of division is accepted  
8 or approved by the council, he may discharge the lien upon any one  
9 or more of them by payment of the amount unpaid, calculated as  
10 determined by the council.

1     **SEC. 27. Limitations on assessment costs.** No special assessment  
2 against any lot, for any public improvement as defined herein, shall  
3 be in excess of the amount of such assessment as shown in the schedule  
4 confirmed by the court, or if court confirmation is not utilized then  
5 on the original plat and schedule as adopted by the council and no  
6 such assessment shall exceed twenty-five percent of the value of the  
7 lot as shown by the plat and schedule theretofore approved by the  
8 council.

9     Special assessments for the construction or repair of underground  
10 connections for private property for gas, water, sewers, or electricity  
11 shall be assessed to each lot for the actual cost of each connection for  
12 such lot and the twenty-five percent limitation of the preceding para-  
13 graph shall not apply.

1     **SEC. 28. Deficiencies.** If the special assessment which may be  
2 levied against any lot be insufficient to pay its proportion of the cost  
3 of the improvement, the deficiency may be paid from the fund or funds  
4 most logically related to the type of improvement.

5     If there be property against which no special assessment can be  
6 levied or collected, the portion of the cost of the public improvement  
7 which would have been assessed against such property shall be paid in  
8 like manner.

1     **SEC. 29. Assessment against railway property.** The right of way  
2 of any railway company shall be subject to special assessments for all  
3 public improvements provided in this chapter and such assessments

4 shall constitute a debt due the municipality which shall be a paramount  
5 lien upon the track of the railway company owning or leasing such  
6 right of way within the limits of the municipality. No part of the  
7 property of any railway to which a lien for unpaid special assessments  
8 has attached shall be released from such lien until the whole assess-  
9 ment is paid.

1     **SEC. 30. Installments—payment—delinquency.**

2     1. *First installment.* The first installment of each assessment, or  
3 total amount thereof if it be less than ten dollars, with interest on  
4 the whole assessment from date of acceptance of the work by the  
5 council, shall become due and payable on January 1 next succeeding the  
6 date of such levy unless the assessment is filed with the county au-  
7 ditor less than thirty days prior to such next succeeding January 1  
8 after the date of levy.

9     2. *Annual installments.* The succeeding annual installments, with  
10 interest on the whole unpaid amount, shall respectively become due  
11 on January 1 annually thereafter and shall be paid at the same time  
12 and in the same manner as the March semi-annual payment of ordi-  
13 nary taxes.

14     3. *Outstanding balance—payments.* All future installments of an  
15 assessment may be paid on any date by payment of the then outstand-  
16 ing balance plus interest to the succeeding June 1.

17     4. *Delinquency.* All such assessments with interest shall become  
18 delinquent after the thirty-first day of March next after their due  
19 date, and shall bear the same interest with the same penalties as  
20 ordinary taxes, and when collected the said interest and penalties shall  
21 be credited to the same fund as the said special assessment.

22     5. *Interest period.* Upon the payment of any assessment or in-  
23 stallment thereof interest shall be computed and collected as aforesaid  
24 to the first day of June following the date of such payment.

25     6. *Lien of assessment.* All assessments shall constitute liens on the  
26 lots assessed from the date they are certified to the county auditor  
27 and such liens shall have the same preference and priorities as liens  
28 for ordinary taxes; provided, that in no case shall the owner of any  
29 lot be liable for an assessment greater than provided for in sections  
30 twenty-six (26) and twenty-seven (27) hereof.

1     **SEC. 31. Appeals to district court.**

2     1. Any person or corporation, having an interest in any property  
3 subject to special assessment under any given exercise of the powers  
4 conferred upon municipalities by this chapter, shall have the right,  
5 within twenty days after the adoption of a resolution of necessity, to  
6 test the regularity of the proceedings under such exercise of power by  
7 a petition in equity filed in the district court of the county wherein  
8 such property is located. Filing such petition shall not operate as a  
9 stay of further proceedings on the improvement by the council unless  
10 there is also filed a bond in an amount and with security approved by  
11 the court.

12     2. Any person or corporation, having an interest in any property  
13 specially assessed under any exercise of the powers conferred upon  
14 municipalities by this chapter, shall have the right to appeal from the

15 amount of such assessment at any stage of the special assessment  
16 procedure up to twenty days after the publication of notice of adoption  
17 of the final assessment schedule by petition to the district court of  
18 the county wherein such property is located, but such appeal shall go  
19 only to the amount of that assessment and shall in no event operate  
20 as a stay of further proceedings by the council on the improvement.

21 3. Nothing herein set forth shall be construed so as to deny any  
22 person or corporation having an interest in property subject to special  
23 assessment a right of appeal to the district court on the ground of  
24 fraud or to avail himself of such other remedies as are available by  
25 law.

1 SEC. 32. **Payment of assessments.** Assessments levied and certi-  
2 fied under the provisions of this chapter and installments thereof and  
3 interest thereon shall be payable at the office of the county treasurer  
4 of the county wherein the property assessed is located, and assess-  
5 ments may be there paid in full and without interest within thirty  
6 days after the date of certification thereof to the county auditor.

1 SEC. 33. **Special assessment bonds.**

2 1. *Issuance.* After certification of the final assessment schedule  
3 the municipality shall, by resolution of the council, authorize and  
4 issue bonds in anticipation of the collection of unpaid special assess-  
5 ments, provided that the total principal amount of bonds issued for  
6 account of any public improvement shall not exceed the total amount  
7 of unpaid special assessments less the amount assessed for the default  
8 fund.

9 2. *Form.* All such bonds shall be negotiable and shall recite on  
10 their face that they have been issued under the provisions of this  
11 chapter and are payable as to both principal and interest from the  
12 proceeds of the special assessments levied for account of the public  
13 improvement. Such bonds shall bear interest at a rate not exceeding  
14 five percent and shall mature serially on June 1 of the years in which  
15 any of such principal is scheduled to become due and shall contain a  
16 provision that the municipality reserves the right and option of call-  
17 ing and redeeming any or all of the bonds on June 1 of each year prior  
18 to maturity upon such terms as are specified therein.

19 3. *Payment.* The proceeds of the special assessments and interest  
20 collected thereon shall be used and applied by the treasurer of the  
21 municipality to the payment of the interest on the bonds and to the  
22 retirement of the principal as rapidly as such proceeds are collected.

23 4. *Sale—proceeds.* Said bonds shall be sold at public sale in the  
24 manner provided for by chapter seventy-five (75), but shall not be  
25 sold for less than par value with accrued interest from date to the  
26 time of delivery. In the event that no bid is received at the public  
27 sale, the council may require the contractor for the public improvement  
28 to purchase same at par value for bonds bearing five percent interest.  
29 The proceeds shall be used and applied to the payment of the cost of  
30 the public improvement.

31 5. *Procedure.* The provisions of chapter three hundred ninety-six  
32 (396) shall be applicable to bonds issued under this chapter.

33 6. *Surplus.* Any excess of proceeds from special assessment re-

34 maining after all of the bonds for account of a particular improvement  
35 have been paid with interest shall be credited to the fund from which  
36 deficiencies for such improvement were paid.

1     **SEC. 34. Tax sale.** Property against which a special assessment  
2 has been levied for public improvements may be sold for any sum of  
3 principal or interest due and delinquent at any regular or adjourned  
4 tax sale, in the same manner, with the same forfeitures, penalties,  
5 right of redemption, certificates, and deeds as for the nonpayment of  
6 ordinary taxes. The purchaser at such sale shall take the property  
7 charged with the lien of the remaining unpaid installments and inter-  
8 est. At any such sale where bonds have been issued in anticipation of  
9 such special assessments and interest, the municipality may be a pur-  
10 chaser and be entitled to all the rights of purchasers at tax sales. The  
11 proceeds subsequently realized from sales of any property so purchased  
12 by the municipality shall be credited to the funds of the municipality  
13 from which deficiencies on such improvement were paid, or if there  
14 were no deficiencies to the general fund.

1     **SEC. 35. Payment from other funds.** The whole or any part of the  
2 cost of construction or repair of any public improvement may be paid  
3 under the provisions of sections three hundred ninety-six point twenty-  
4 two (396.22) and three hundred ninety-six point twenty-three (396.23),  
5 or they may be paid from the fund or funds of the municipality au-  
6 thorized to be used for the particular type of improvement and the  
7 council shall provide that the tax authorized for purposes of such fund  
8 or funds shall be annually levied to the full extent necessary to reim-  
9 burse said fund or funds for the amount paid therefrom for the con-  
10 struction or repair of the improvement.

1     **SEC. 36. Relevy.** When by reason of nonconformity to any law or  
2 resolution, or by reason of any omission, informality, or irregularity,  
3 any special tax or assessment levied is determined by the council to be  
4 invalid or is adjudged illegal, the council shall have power to correct  
5 the same by resolution, and may reassess and relevy the same, with  
6 the same force and effect as if done at the proper time and in the  
7 manner provided by law or by the resolution relating thereto.

1     **SEC. 37. Joint municipal and state improvements.** The provisions  
2 of this chapter shall apply to any street improvement undertaken  
3 jointly by the municipality and the highway commission under the  
4 provisions of sections three hundred thirteen point twenty-one  
5 (313.21) to three hundred thirteen point twenty-three (313.23), in-  
6 clusive, and any such municipality may assess and pay its portion of  
7 the cost of such street improvement as herein provided, but any re-  
8 quirement of this chapter in respect to approval of detailed plans and  
9 specifications, calling for construction bids, awarding construction con-  
10 tracts, and acceptance of the completed improvement shall be carried  
11 out by such municipality with the state highway commission as may  
12 be provided in any agreement entered into as permitted by section  
13 three hundred thirteen point twenty-two (313.22).

1     **SEC. 38. Streets with tracks.** In the making of assessments for  
2 paving streets, avenues, or public places along or upon which any  
3 track of a railway or street railway company is located, the engineer

4 shall make an estimate of the cost of building the improvement, and  
 5 he shall also make an estimate of what would be the cost of such im-  
 6 provement if such tracks did not there exist. The railway or street  
 7 railway company shall be charged with the difference between said  
 8 estimates of cost and shall make payment in the same manner as other  
 9 special assessments are paid. This section applies only to track within  
 10 the limits of the improvement proper and nothing herein contained  
 11 shall be construed as exempting such railway or street railway com-  
 12 pany from any special assessment on any other property, adjacent or  
 13 abutting, within the assessment district and owned by such company,  
 14 nor shall this section be construed as relieving such company from  
 15 any of its duties or liabilities set forth in any other sections of the law  
 16 concerning repair or construction of the strip of paving between the  
 17 rails and one foot outside thereof.

1 SEC. 39. Interpretation. The provisions of this Act shall not be  
 2 construed as invalidating any special assessment proceedings or bonds  
 3 issued thereunder which were undertaken under the provisions of any  
 4 law which existed at the time such proceedings were initiated.

1 Sec. 40. Section four hundred seventeen point one (417.1), Code  
 2 1950, is amended by striking the words "operating under the com-  
 3 mission plan of municipal government and" in lines two (2) and three  
 4 (3) thereof. Section four hundred seventeen point fifty-four (417.54),  
 5 subsection one (1), Code 1950, is amended by striking from line three  
 6 (3) of said subsection the word "wholly", and by striking from lines  
 7 three (3) and four (4) of said subsection the words "under the com-  
 8 mission form of government". Section four hundred seventeen point  
 9 fifty-four (417.54), subsection two (2), is amended by striking from  
 10 line six (6) of said subsection the word "wholly", and by inserting  
 11 after the word "busses", in line thirteen (13), the following: "operat-  
 12 ing over fixed routes or parts of routes within such city".

1 Sec. 41. Chapter three hundred ninety-one A (391A), Code 1950,  
 2 is hereby repealed.

Approved May 2, 1951.

## CHAPTER 157

### JOINT MUNICIPAL SEWERS

H. F. 586

AN ACT to amend section three hundred ninety-two point one (392.1), Code 1950, relat-  
 ing to joint use of sanitary sewer system.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section three hundred ninety-two point one (392.1),  
 2 Code 1950, is hereby amended by adding at the end thereof the follow-  
 3 ing:  
 4 "Provided, however, that nothing herein shall prevent cities and  
 5 towns adjacent to each other from contracting with each other for the  
 6 joint use of the sanitary sewer system of either city or town."

Approved April 26, 1951.